

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA  
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER	<input type="checkbox"/>	DATE	<u>February 15, 2012</u>
MOTOR CARRIER MATTER	<input type="checkbox"/>	DOCKET NO.	<u>2011-304-C</u>
UTILITIES MATTER	<input checked="" type="checkbox"/>	ORDER NO.	<u>2012-124</u>

**THIS DIRECTIVE SHALL SERVE AS THE COMMISSION'S ORDER ON THIS ISSUE.**

**SUBJECT:**

DOCKET NO. 2011-304-C - Complaint and Petition for Relief of BellSouth Telecommunications, LLC d/b/a AT&T Southeast d/b/a AT&T South Carolina v. Halo Wireless, Incorporated for Breach of the Parties' Interconnection Agreement - Discuss this Matter with the Commission.

**COMMISSION ACTION:**

Move that we deny Halo's Partial Motion to Dismiss Counts I, II, and III of the AT&T Complaint. Under the law, Halo can prevail on its Motion only if it can show that even if the allegations of AT&T's complaint are true, the Complaint still fails to state a cause of action upon which relief may be granted. This is not the case with the Complaint in the present case. In the present situation, all of AT&T's claims relate to alleged breaches of contract of the interconnection agreement between the two companies. In opposition, Halo makes a number of factual arguments about AT&T's claims. Factual disputes cannot establish a basis for dismissing a complaint. Similarly, while Halo disputes AT&T's position that this Commission has jurisdiction to adjudicate AT&T's claims, again factual determinations must be made before the Commission can rule on the jurisdictional dispute. Further, AT&T has stated that it will not seek any relief beyond that authorized by the Bankruptcy Court, so asserting the continued jurisdiction of the Bankruptcy Court is not a ground for dismissal. After considering all of these matters, Mr. Chairman, I once again move that we deny the Halo partial Motion to Dismiss, since it does not state appropriate grounds for even partial dismissal of the AT&T Complaint.

PRESIDING: HowardSESSION: RegularTIME: 2:00 p.m.

	MOTION	YES	NO	OTHER
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HALL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
MITCHELL	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WHITFIELD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WRIGHT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Absent</u>

NARUC Business - Attending an ICER Workshop in Brussels, Belgium

(SEAL)

RECORDED BY: J. Schmieding

